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Attorneys for Plaintiff, Michael Rangel

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Michael Rangel,

Plaintiff,

vs.

National Recovery Services, LLC; and
DOES 1-10, inclusive,

Defendants.

Case No.:

COMPLAINT

1 For this Complaint, the Plaintiff, Michael Rangel, by undersigned counsel,
2 states as follows:
3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the Fair Debt
6 Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of
7 Plaintiff's personal privacy by the Defendants and its agents in their illegal efforts to
8 collect a consumer debt.
9

10 2. Original and supplemental jurisdiction exists pursuant to 28 U.S.C. §§ 1331,
11 1367.
12

13 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that
14 Defendants transact business here and a substantial portion of the acts giving rise to
15 this action occurred here.
16

17 **PARTIES**

18 4. The Plaintiff, Michael Rangel (hereafter "Plaintiff"), is an adult individual
19 residing in Buckeye, Arizona, and is a "consumer" as the term is defined by 15 U.S.C.
20 § 1692a(3).
21

22 5. The Defendant, National Recovery Services, LLC (hereafter "NRS"), is a
23 company with an address of 416 S Main Street # 3, Ottawa, Kansas 66067-2342,
24 operating as a collection agency, and is a "debt collector" as the term is defined by 15
25 U.S.C. § 1692a(6).
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1 6. Does 1-10 (the “Collectors”) are individual collectors employed by NRS and
2 whose identities are currently unknown to the Plaintiff. One or more of the Collectors
3 may be joined as parties once their identities are disclosed through discovery.
4

5 7. NRS at all times acted by and through one or more of the Collectors.
6

7 **ALLEGATIONS APPLICABLE TO ALL COUNTS**

8 **A. The Debt**
9

10 8. The Plaintiff allegedly incurred a financial obligation (the “Debt”) to an original
11 creditor (the “Creditor”).
12

13 9. The Debt arose from services provided by the Creditor which were primarily
14 for family, personal or household purposes and which meets the definition of a “debt”
15 under 15 U.S.C. § 1692a(5).
16

17 10. The Debt was purchased, assigned or transferred to NRS for collection, or NRS
18 was employed by the Creditor to collect the Debt.

19 11. The Defendants attempted to collect the Debt and, as such, engaged in
20 “communications” as defined in 15 U.S.C. § 1692a(2).
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B. NRS Engages in Harassment and Abusive Tactics

12. Within the last year, NRS placed calls to Plaintiff in an attempt to collect the Debt.

13. During the initial communication with Plaintiff, NRS used rude abusive language in an effort to intimidate Plaintiff into making immediate payment of the entire Debt.

14. During the initial communication with Plaintiff, NRS threatened to immediately seize Plaintiff's home and vehicle if he did not pay the entire Debt immediately to NRS.

15. During the initial communication with Plaintiff, NRS' threats to Plaintiff overshadowed Plaintiff's right under Federal and State laws to either dispute the validity of the Debt or request verification of the Debt within the following thirty (30) days.

16. During the initial communication with Plaintiff, NRS failed to properly identify itself and include the "mini-Miranda warning" when placing calls to Plaintiff.

17. During the initial communication with Plaintiff, Plaintiff repeatedly requested NRS to identify itself and NRS repeatedly refused, until finally disclosing its identify to Plaintiff.

18. NRS failed to send Plaintiff a written letter within five days of the initial contact with Plaintiff as required by law.

1 **C. Plaintiff Suffered Actual Damages**

2
3 19. The Plaintiff has suffered and continues to suffer actual damages as a result of
4 the Defendants' unlawful conduct.

5
6 20. As a direct consequence of the Defendants' acts, practices and conduct, the
7 Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional
8 distress, fear, frustration and embarrassment.

9
10 21. The Defendants' conduct was so outrageous in character, and so extreme in
11 degree, as to go beyond all possible bounds of decency, and to be regarded as
12 atrocious, and utterly intolerable in a civilized community.

13
14 **COUNT I**
15 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**

16 **15 U.S.C. § 1692, et seq.**

17
18 22. The Plaintiff incorporates by reference all of the above paragraphs of this
19 Complaint as though fully stated herein.

20
21 23. The Defendants engaged in behavior the natural consequence of which was to
22 harass, oppress, or abuse the Plaintiff in connection with the collection of a debt, in
23 violation of 15 U.S.C. § 1692d.

24
25 24. The Defendants used profane and abusive language when speaking with the
26 consumer, in violation of 15 U.S.C. § 1692d(2).

1 25. The Defendants placed calls to the Plaintiff without disclosing the identity of
2 the debt collection agency, in violation of 15 U.S.C. § 1692d(6).

3
4 26. The Defendants threatened the Plaintiff with seizure of his property if the debt
5 was not paid, in violation of 15 U.S.C. § 1692e(4).

6
7 27. The Defendants employed false and deceptive means to collect a debt, in
8 violation of 15 U.S.C. § 1692e(10).

9
10 28. The Defendants failed to inform the consumer that the communication was an
11 attempt to collect a debt, in violation of 15 U.S.C. § 1692e(11).

12 29. The Defendants failed to send the Plaintiff a validation notice stating the
13 amount of the debt, in violation of 15 U.S.C. § 1692g(a)(1).

14
15 30. The Defendants failed to send the Plaintiff a validation notice stating the name
16 of the original creditor to whom the debt was owed, in violation of 15 U.S.C. §
17 1692g(a)(2).

18
19 31. The Defendants failed to send the Plaintiff a validation notice stating the
20 Plaintiff's right to dispute the debt within thirty days, in violation of 15 U.S.C. §
21 1692g(a)(3).

22
23 32. The Defendants failed to send the Plaintiff a validation notice informing the
24 Plaintiff of a right to have verification and judgment mailed to the Plaintiff, in
25 violation of 15 U.S.C. § 1692g(a)(4).

1 33. The Defendants failed to send the Plaintiff a validation notice stating the
2 Plaintiff's right to request the name and address of the original creditor, in violation of
3 15 U.S.C. § 1692g(a)(5).
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5 34. The foregoing acts and omissions of the Defendants constitute numerous and
6 multiple violations of the FDCPA, including every one of the above-cited provisions.
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8 35. The Plaintiff is entitled to damages as a result of the Defendants' violations.
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10 **COUNT II**

11 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

12 36. The Plaintiff incorporates by reference all of the above paragraphs of this
13 Complaint as though fully set forth herein at length.
14

15 37. The acts, practices and conduct engaged in by the Defendants vis-à-vis the
16 Plaintiff was so outrageous in character, and so extreme in degree, as to go beyond all
17 possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in
18 a civilized community.
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20 38. The foregoing conduct constitutes the tort of intentional infliction of emotional
21 distress under the laws of the State of Arizona.
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23 39. As a result of the Defendants' intentional infliction of emotional distress, the
24 Plaintiff is entitled to actual damages in an amount to be determined at trial from
25 Defendants.
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PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the
Defendants:

A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the
Defendants;

B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C.
§1692k(a)(2)(A) against the Defendants;

C. Costs of litigation and reasonable attorney's fees pursuant to
15 U.S.C. § 1692k(a)(3) against the Defendants;

D. Actual damages from the Defendants for the all damages including
emotional distress suffered as a result of the intentional, reckless, and/or
negligent FDCPA violations and intentional, reckless, and/or negligent
invasions of privacy and interference with contractual relations in an
amount to be determined at trial for the Plaintiff;

E. Punitive damages;

F. For Plaintiff's statutory costs in relation to Arizona claim(s) pursuant
to A.R.S. § 12-341.

G. For Plaintiff's reasonable attorneys' fees and costs in relation to any
Arizona contract claim pursuant to A.R.S. § 12-341.01. and

H. Such other and further relief as may be just and proper.

1 **TRIAL BY JURY DEMANDED ON ALL COUNTS**
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5 DATED: October 25, 2011
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KINDRA DENEAU

8 By: /s/ Kindra Deneau
9 Kindra Deneau
10 Lemberg & Associates, LLC
11 Attorney for Plaintiff, Michael Rangel
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